

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

FILED

DEC 23 2008

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO.

2:08-00286
30 U.S.C. § 820(d)
30 U.S.C. § 820(f)

ARACOMA COAL COMPANY

I N F O R M A T I O N

The United States Attorney Charges:

COUNT ONE

Wilful Violation of Mandatory Safety Standard:

Failure To Provide Primary Escapeway

At all relevant times:

1. Defendant ARACOMA COAL COMPANY was a corporation engaged in the business of operating an underground coal mine near Logan, Logan County, West Virginia, known as the Alma No. 1 mine, whose operations and products affected interstate commerce. As such, defendant ARACOMA COAL COMPANY was an operator within the meaning of 30 U.S.C. § 802(d) and was subject to the provisions of the Federal Mine Safety and Health Act of 1977 ("the Mine Act") and to the regulations promulgated thereunder.

2. Defendant ARACOMA COAL COMPANY and the Alma No. 1 mine were subject to the mandatory safety standards in Title 30, Code of Federal Regulations.

3. These mandatory safety standards included the requirements in 30 C.F.R. § 75.380 regarding primary and alternate escapeways, namely:

- a. the requirement that primary and alternate escapeways be provided from each working section;
- b. the requirement that the escapeways be clearly marked to show the route and direction of travel to the surface;
- c. the requirement that the primary escapeway be ventilated with intake air; and
- d. the requirement that the primary escapeway be separated from belt haulage entries for its entire length.

Background

4. On January 19, 2006, a fire broke out at the take-up storage unit on the No. 9 longwall belt line in the Alma No. 1 mine and heavy smoke from the fire flowed into the No. 2 working section's primary escapeway.

5. At the time of the fire Ellery Hatfield and Don Bragg were working as roof bolters on the No. 2 section.

6. When the No. 2 section was eventually told to evacuate the mine because of the fire, Mr. Bragg and Mr. Hatfield joined the other miners on the section and began to travel out of the mine in what they believed to be the primary escapeway.

7. At a certain point, while still in the primary escapeway, these miners, including Mr. Bragg and Mr. Hatfield, were engulfed by the fire's smoke, which was so thick that it reduced visibility, even with the use of headlamps, to zero.

8. Ten of the 12 miners on the No. 2 section managed to find their way through the dark to a small door that connected the

primary escapeway to the alternate escapeway, which at that time was free of the fire's smoke. Mr. Bragg and Mr. Hatfield were unable to escape the smoke in the primary escapeway and died from suffocation.

Violation of Mandatory Safety Standard

9. On or about January 19, 2006, at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.380 by failing to provide in the Alma No. 1 mine a primary escapeway from its number 2 working section which was clearly marked to show the route and direction of travel to the surface and which was separated from belt haulage entries for its entire length, which resulted in the deaths of its miners Don Bragg and Ellery Hatfield.

In violation of Title 30, United States Code, Section 820(d).

COUNT TWO

Wilful Violation of Mandatory Safety Standard:

Failure To Train Dispatcher

1. The United States repeats and re-alleges paragraphs 1 and 2 of Count One of this Information as if fully set forth herein.

2. These mandatory safety standards included the requirements in 30 C.F.R. § 48.7 regarding the training of miners, namely, the requirement that any person who controls or directs haulage operations at a mine receive and complete training courses in safe haulage procedures related to the haulage system, ventilation system, firefighting procedures, and emergency evacuation procedures in effect at the mine before assignment to such duties.

3. On or about January 19, 2006, at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 48.7 in that it failed to provide adequate training for the dispatcher and operator of the atmospheric monitoring system on duty on that date related to the mine ventilation system, firefighting procedures, and emergency evacuation procedures.

In violation of Title 30, United States Code, Section 820(d).

COUNT THREE

Wilful Violation of Mandatory Safety Standard:

Failure To Promptly Withdraw Miners

1. The United States repeats and re-alleges paragraphs 1 and 2 of Count One of this Information as if fully set forth herein.

2. These mandatory safety standards included the requirements in 30 C.F.R. § 75.1501 regarding emergency evacuations, namely:

- a. the requirement that for each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire; and
- b. the requirement that the responsible person shall initiate and conduct an immediate mine evacuation when there is a mine emergency which presents an imminent danger to miners due to fire or explosion or gas or water inundation.

3. On or about January 19, 2006, at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.1501 in that it failed to initiate and conduct an immediate mine evacuation of the miners working on the number 2 section and the longwall section when the fire at the number 9 headgate longwall belt takeup storage unit presented an imminent danger to those miners.

In violation of Title 30, United States Code, Section 820(d).

COUNT FOUR

Wilful Violation of Mandatory Safety Standard: Escapeway Drills

At all relevant times:

1. Defendant ARACOMA COAL COMPANY was a corporation engaged in the business of operating an underground coal mine near Logan, Logan County, West Virginia, known as the Alma No. 1 mine, whose products and operations affected commerce. As such, defendant ARACOMA COAL COMPANY was an operator within the meaning of 30 U.S.C. § 802(d) and was subject to the provisions of the Federal Mine Safety and Health Act of 1977 ("the Mine Act") and to the regulations promulgated thereunder.

2. Defendant ARACOMA COAL COMPANY and the Alma No. 1 mine were subject to the mandatory safety standards in 30 C.F.R., Part 75.

3. These mandatory safety standards included the requirements in 30 C.F.R. § 75.383 regarding escapeway drills, namely:

- a. the requirement that at least once every 90 days each miner participate in a practice escapeway drill, during which the miner travel the escapeway from the miner's working section;
- b. the requirement that at least once every six weeks and for each shift at least two miners on each working section, accompanied by the section supervisor, participate in a practice escape drill;
- c. the requirement that each drill not be conducted in the same escapeway as the immediately preceding drill; and
- d. the requirement of an up-to-date map showing the designated escapeways from the working sections.

4. Defendant ARACOMA COAL COMPANY and Alma No. 1 mine were also subject to the mandatory safety standards in 30 C.F.R. § 75.1502, including the requirements regarding written certifications of mine emergency drills, namely:

- a. the requirement that the operator certify by signature and date that the drill was held as required; and
- b. the requirement that the certification include the names of the miners participating in each drill.

5. For the 90-day period immediately prior to and including January 19, 2006, that is, from on or about October 22, 2005, through and including January 19, 2006, at its Alma No. 1 mine at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.383 by failing to comply with the requirement that at least once every 90 days each miner on the number 2 working section participate in a practice escapeway drill, during which the miner travel the escapeway from the miner's working section.

In violation of Title 30, United States Code, Section 820(d).

COUNT FIVE

Wilful Violation of Mandatory Safety Standard: Escapeway Drills

1. The United States repeats and re-alleges paragraphs 1 through 4 of Count Four of this Information as if fully set forth herein.

2. For the six-week period immediately prior to and including January 19, 2006, that is, from on or about December 8, 2005, through and including January 19, 2006, at its Alma No. 1 mine at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.383 by failing to comply with the requirement that at least once every six weeks and for each shift at least two miners on the number 2 working section, accompanied by the section supervisor, participate in a practice escape drill.

In violation of Title 30, United States Code, Section 820(d).

COUNT SIX

Wilful Violation of Mandatory Safety Standard: Escapeway Drills

1. The United States repeats and re-alleges paragraphs 1 through 4 of Count Four of this Information as if fully set forth herein.

2. For the six-week period from on or about October 26, 2005, through and including December 7, 2005, at its Alma No. 1 mine at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.383 by failing to comply with the requirement that at least once every six weeks and for each shift at least two miners on the number 2 working section, accompanied by the section supervisor, participate in a practice escape drill.

In violation of Title 30, United States Code, Section 820(d).

COUNT SEVEN

Wilful Violation of Mandatory Safety Standard: Escapeway Drills

1. The United States repeats and re-alleges paragraphs 1 through 4 of Count Four of this Information as if fully set forth herein.

2. For the 90-day immediately prior to and including January 19, 2006, that is, from on or about October 22, 2005, through and including January 19, 2006, at its Alma No. 1 mine at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.383 by failing to comply with the requirement that at least once every 90 days and for each shift at least two miners on the long wall working section, accompanied by the section supervisor, participate in a practice escape drill.

In violation of Title 30, United States Code, Section 820(d).

COUNT EIGHT

Wilful Violation of Mandatory Safety Standard: Escapeway Drills

1. The United States repeats and re-alleges paragraphs 1 through 4 of Count Four of this Information as if fully set forth herein.

2. For the six-week period immediately prior to and including January 19, 2006, that is, from on or about December 8, 2005, through and including January 19, 2006, at its Alma No. 1 mine at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.383 by failing to comply with the requirement that at least once every six weeks and for each shift at least two miners on the long wall working section, accompanied by the section supervisor, participate in a practice escape drill.

In violation of Title 30, United States Code, Section 820(d).

COUNT NINE

Wilful Violation of Mandatory Safety Standard: Escapeway Drills

1. The United States repeats and re-alleges paragraphs 1 through 4 of Count Four of this Information as if fully set forth herein.

2. For the six-week period from on or about October 26, 2005, through and including December 7, 2005, at its Alma No. 1 mine at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY wilfully violated the mandatory safety standard in 30 C.F.R. § 75.383 by failing to comply with the requirement that at least once every six weeks and for each shift at least two miners on the long wall working section, accompanied by the section supervisor, participate in a practice escape drill.

In violation of Title 30, United States Code, Section 820(d).

COUNT TEN

False Statement: Escapeway Drill Record


1. The United States repeats and re-alleges paragraphs 1 through 4 of Count Four of this Information as if fully set forth herein.

2. On or about January 7, 2006, at or near Logan, Logan County, West Virginia, within the Southern District of West Virginia, defendant ARACOMA COAL COMPANY knowingly made false statements, representations and certifications in a record, report, and other document required to be maintained pursuant to Chapter 22 of the Mine Act, namely, statements in a record known as the Escapeway and Fire Drill Record Book that on January 7, 2006, certain listed miners participated in a practice escapeway drill by traveling in the primary escapeway from the number 2 working section (the 90-day escapeway drill) and that on January 7, 2006, certain listed miners and the section supervisor traveled the primary escapeway from the number 2 working section (the six-week escapeway drill), when in truth and fact defendant ARACOMA COAL COMPANY well knew that such escapeway drills and travel did not occur.

In violation of Title 30, United States Code, Section 820(f).

CHARLES T. MILLER
United States Attorney

By:


HUNTER P. SMITH JR.
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